



Marketing Violent Entertainment to Children:

A Fourth Follow-up Review of
Industry Practices in the Motion Picture,
Music Recording & Electronic Game Industries

A Report to Congress

Federal Trade Commission

July 2004

IV. Electronic Games

A. Marketing to Children: Advertising Placement

1. Self-regulatory programs restricting placement of advertising in media popular with children

In its September 2000 Report, the Commission found widespread marketing of Mature ("M")-rated electronic games to children under 17¹⁷⁵ – a practice that violated the anti-targeting provision of the game industry's self-regulatory advertising and marketing code ("AdCode"). Following issuance of that report, the electronic game industry amended its anti-targeting provision to add specific standards defining targeting. Under those provisions, ads for M-rated games cannot appear on TV and radio programs with a 35% or more under-17 audience, or in print media or on Internet sites with a 45% or more under-17 audience.¹⁷⁶ In addition, on October 31, 2001, the ESRB implemented an expanded enforcement system premised on the severity of a particular violation and the number of points accrued by a publisher for past and current violations of the industry code. Sanctions range from requiring corrective action to monetary fines for inappropriate target marketing. In the first nine months of 2003, thirty-two companies were found to have violated the ESRB's requirements and were assessed points and, in four instances, fines.¹⁷⁷

As a complement to restricting the marketing of M-rated electronic games to children under 17, the Commission's prior reports have noted programs developed by the VSDA and the ESRB for retailers that wish to restrict sale or rental of products. Those programs continue.¹⁷⁸ In addition, the IEMA has just announced a new initiative by its member retailers to restrict sales by the end of 2004.¹⁷⁹

2. Advertising placements: current practices

For this Report, the Commission monitored industry advertising placements on television and in print media. In addition, the Commission reviewed marketing plans from three companies that had released and promoted several M-rated games in the last year, including information on where ads for those products were placed in major media, including television, print, and online.¹⁸⁰

a. Television advertising

None of the plans submitted to the Commission for the M-rated games expressly targeted an under-17 audience, although all that specified a target audience included youth as young as 17 or 18.¹⁸¹ In seeking to reach that 17- and 18-year-old audience, several of the marketing plans included at least some planned ad placements for M-rated games on television shows popular with teens, including *Jackass*, *Total Request Live*, *WWE Smackdown*, *Smallville*, and *King of the Hill*.¹⁸² Placements on MTV's *Total Request Live* would appear to run afoul of the industry's advertising code's prohibition against placing ads for M-rated games on shows with a 35% or greater under-17 audience, but the other shows are permitted under the code.¹⁸³

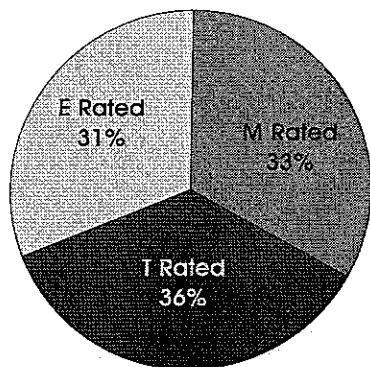
To supplement information from the marketing plans, the Commission monitored advertising on network, cable, and syndicated programs popular with teens for an eight-week period commencing in May 2003.¹⁸⁴ That monitoring found that ads were placed for two M-rated games (Midway's *Mortal Kombat*, and Microsoft's *Brute Force*) on *WWE Smackdown*. In addition, ad monitoring data provided by The Parents Television Council for the period January to August 2003 showed several more ad placements for M-rated games on programs popular with teens, including MTV's *Making the Band 2* and *Sorority Life 2*, Fox's *Cedric the Entertainer*, UPN's *Girlfriends*, and WB's *Smallville*.¹⁸⁵ The five M-rated games promoted on one or more of those programs were: Activision's *Tenchu: Wrath of Heaven*; Capcom's *Devil May Cry 2*; Microsoft's *Brute Force*; and SCEA's *Primal* and *The Getaway*. Although these ad placements would appear to comply with the AdCode's 35% requirement, all are on shows with large teen audiences.

b. Print advertising

In the September 2000 Report, the Commission found that game companies' marketing documents revealed plans to advertise M-rated games repeatedly in magazines with a substantial readership under 17. The media plans submitted for this Report continue to show advertising in print media popular with teens, although virtually none of the print ad placements would violate the AdCode's standard that ads for M-rated games not be placed in print media with a 45% or greater under-17 audience. Ads were often placed in print media that came very close to the 45% limit. In only one instance did the media plans show that a company placed ads in a magazine with a majority under-17 readership. The ESRB challenged that placement, but the company appealed ESRB's challenge on the basis that its media buyer had placed the ads in error.

To monitor industry-wide ad placements, the Commission reviewed *Electronic Gaming Monthly* and *Playstation 2 Magazine* over a four month period (June - September 2003). Although neither of

Playstation 2 Magazine and Electronic Gaming Monthly Advertising Composition by Rating June – September 2003



"Rating Pending" ads are grouped by the rating they later received

these magazines have a readership that is 45% or more under 17, each has a sizeable readership among teens and older children.¹⁸⁶ The Commission's review found that ads for M-rated games made up 33% of the game ads placed in those magazines, even though M-rated games account for less than 10% of the game titles published in the last year. A breakout of the magazine ads by rating is presented here.

In addition to the large percentage of M-rated game ads found in *Electronic Gaming Monthly* and *Playstation 2 Magazine*, the Commission reviewed *Tips & Tricks*, which has a 43% readership under 17. In the *Tips & Tricks* issues from June to September 2003, 13% of the ads were for M-rated games.¹⁸⁷

As noted in the Commission's June 2002 Report, the publisher of *GamePro* instituted a change to its M-rated game ad placement policy: ads for M-rated games are not allowed in its subscription edition because of its large under-17 readership (59%). Nonetheless, the Commission's review of the subscription edition of *GamePro* found ads by five different game publishers for six games that ultimately were rated M. These eight ads all carried a Rating Pending icon; each placement would, nonetheless, violate the AdCode if the game maker were aware at the time of placement that the game would likely be rated M.¹⁸⁸ Ads appeared in *GamePro* for: UbiSoft's *XIII*; Rockstar's *Grand Theft Auto Vice City*; THQ's *Pride Fighting Championships*; Gotham Games' *The Great Escape* and *Celebrity Deathmatch*; and Eidos's *Backyard Wrestling*. This finding is in contrast to the finding in the Commission's June 2002 Report, where a review of the *GamePro* subscription issues did not find any ads for M-rated games.¹⁸⁹

One additional concern relates to the placement of ads for T-rated games in publications with a large pre-teen readership, such as *Nintendo Power*. The AdCode requires that "Companies . . . not specifically target advertising for entertainment software products rated "Teen," "Mature," or "Adults Only" to consumers for whom the product is not rated as appropriate." The Commission's review of *Nintendo Power* found many ads for T-rated games (suitable for those 13 and over) with violent content descriptors, even though 43% of its readership is 12 and under and the median age of its readers is 13.

Although the AdCode does not define what percentage of magazine readership might put a publication off limits for ads for T-rated games, the ESRB indicates that ads for T-rated games should not appear in publications that are targeted to children under 13. This would appear to cover magazines like *Boys Life* (Cub Scout Edition), *Nickelodeon Magazine*, *Disney Adventures*, and *Sports Illustrated for Kids*. None of those magazines were reviewed for this Report, except for the December 2003 issue of *Sports Illustrated for Kids*. Sixty-six percent of *Sports Illustrated for Kids*' readership is under 13. Contrary to the ESRB policy, there were four T-rated game ads – IDK Interactive's *The Haunted Mansion*, Namco's *I-Ninja*, Sony Computer Entertainment's *JAK II*, and Crystal Dynamics' *Whiplash*. In 2002, the Children's Advertising Review Unit ("CARU") of the Council of Better Business Bureaus challenged ad placements in *Sports Illustrated for Kids* for a T-rated game, *Tom and Jerry in War of the Whiskers*. The advertiser, NewKidCo, agreed not to make similar ad placements in the future.¹⁹⁰

c. Internet advertising

In the September 2000 Report, the Commission found that nearly all of the game publishers studied had placed ads for M-rated games on websites popular with teens.¹⁹¹ Marketing documents reviewed for this Report show that these practices continue. Nonetheless, none of these ads placements would violate the AdCode's requirement that ads for M-rated games not appear on websites with a 45% or greater under-17 audience.¹⁹² The marketing plans do, however, show ad placements on websites where

youth visitors constitute one third or more of the audience. These sites include gamespot.com (33%), gamespy.com (36%), and IGN.com (40%).¹⁹³

d. Cross-promotions

The AdCode addresses cross-promotions and cross-sells. Cross-promotions are defined as “promotions that feature entertainment software products in conjunction with another company’s brand, products or event.” The AdCode prohibits such promotions for M-rated games with another company’s event if it is reasonable to assume that the event will reach a “substantial audience of persons under 17 years old.”¹⁹⁴ Cross-sells are defined as “ancillary or separate entertainment software products that are being sold or promoted in conjunction with a core entertainment software or hardware product.”¹⁹⁵ Under its cross-sell requirements, the AdCode prohibits the use of a T-rated product to market a game that is M-rated.¹⁹⁶

Two promotions involving video games occurred in 2003 that concern cross-promotions and cross-sells. The first, the Lollapalooza music festival, involved a cross-promotion with video games. Part of the festival’s appeal was GameRiot, essentially a tent in the middle of the concert area that allowed festival attendees to play various video games and compete in game contests. The games available for play at GameRiot were of various ratings, and included several popular and violent M-rated games.¹⁹⁷ Although the festival was billed as targeting 14-34 year-olds, festival promoters made efforts to ensure that tournament players of the M-rated games were at least 17.

A second promotion involved a cross-sell where a video game was used to promote a movie. According to various reports, the T-rated *Enter the Matrix* video game contains a trailer for the R-rated movie, *Matrix Revolutions*.¹⁹⁸ The cross-sell prohibitions of the AdCode prohibit an industry member from using a T-rated game to promote an M-rated (17+) game. Here the promotion was for an R-rated (17+) movie. With the increasing cross-promotions across entertainment media, questions can be raised about whether members in one industry could use promotions of another industry’s products to market to an audience that it could not directly reach in its own promotions.¹⁹⁹

B. Ratings and Reasons for Ratings in Advertising

1. Self-regulatory programs governing disclosure of ratings and reasons

In the September 2000 Report, the Commission recommended that all advertising contain both the rating and the reasons for that rating, also known as content descriptors. The ESA and the ESRB require that such information be included in print advertisements, and that the rating (but not the content descriptors) be included in television and radio advertising. In addition, some game publishers have gone beyond the ESRB requirements to include content descriptors in television ads.²⁰⁰ The ESRB also continues substantial efforts to educate parents about the rating system.

The ESRB has made several revisions to its Adcode since the Commission’s June 2002 Report, including increasing the size of the rating icon in print ads, changing the size and design of the

requirements for descriptors on the back of packaging, and requiring age identifiers on the Mature and Adults Only icons (Mature icon now says "MAIURE 17+").²⁰¹

2. Advertising of rating information: current practices

a. Television advertising

For this Report, the Commission reviewed a selection of ads for M-rated games that aired in 2003. This review found that all but one of the 10 game ads included the AdCode's required voice-overs and rating icons. One 30-second ad incorrectly used the abbreviated voice-over intended for shorter, 15-second ads.²⁰² These results suggest game industry advertisers are generally complying with industry requirements for disclosing rating information in television advertising.

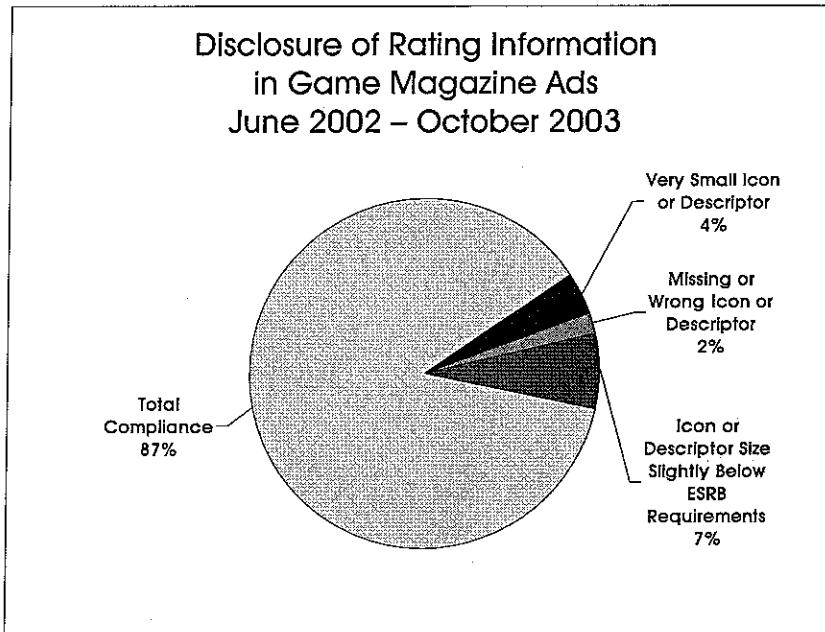
b. Print advertising

In its review of print ads in the June 2002 Report, the Commission found nearly all game advertisers either fully or substantially complied with industry requirements for rating disclosure, with 2% of ads containing a very small icon or descriptor and 1% missing or containing an incorrect icon or descriptor.²⁰³

For this Report, the Commission conducted a review of print ads running between June 2002 and October 2003²⁰⁴ in the following six popular game enthusiast magazines: *100% Independent PlayStation 2 Magazine*, *GamePro*, *Computer Gaming World*, *Electronic Gaming Monthly*, *Tips & Tricks*, and *Nintendo Power*. Overall, 4% of the ads reviewed contained an icon that was sized substantially below the ESRB requirements and another 2% of the ads contained a missing or incorrect icon or descriptor.²⁰⁵

A large majority of the major advertisers were in compliance with industry standards. Of the 52 companies that placed four or more ads during the eighteen-month review period, 39 adhered to the industry standards. The companies that did not comply placed at least some ads that had icons and descriptors that were incorrect or missing altogether.²⁰⁶

The Commission also reviewed retailer ads in these same publications from Best Buy, Electronics Boutique, Wal-Mart, Ebay, Amazon.com, CompUSA, Virgin Megastore, Kmart, and Pricegrabber.com. Each of the retailers displayed the rating icon on the cover art of the product packaging shown in



the ad. Two retailers, Wal-Mart and Best Buy, also included an ESRB icon in their ads showing the range of ratings displayed in the ad like "RP-T." None of the retailer ads displayed the games' content descriptors.

A review of free-standing Sunday newspaper inserts showed that most of the retailer ads included the game's rating on the clip art, although the rating was often hard to find and read. Target and Best Buy were the most consistent in displaying conspicuous or enlarged M ratings on M-rated games. In addition, Best Buy included the words "Mature Rating," and Target added "Rated M for Mature" next to the clip art for M-rated games. Toys "R" Us prominently displayed an explanation of each of the ratings on the page where the game ads appeared. Best Buy, Circuit City, and Toys "R" Us disclosed the ESRB toll-free phone number near advertisements for games, and Circuit City and Toys "R" Us included the address for the ESRB website. None of the retailer ads displayed the games' content descriptors.

c. Internet advertising

(1) Game publisher websites

The Adcode requires a number of specific disclosures for game publishers' websites. If the publisher's advertisement is one-fourth of a screen page or larger, the rating icon and content descriptors must be visibly and prominently displayed directly on the advertisement.²⁰⁷ If the publisher is selling the game online, both the rating icon and content descriptors must appear on any page where a game can be purchased.²⁰⁸ For game "demos," the rating icon and content descriptors or text of rating information (e.g., "ESRB Rating: EVERYONE with COMIC MISCHIEF") must be displayed adjacent to the name of the title on the page where the demo is accessed or on the page prior to download.²⁰⁹

Twenty game websites were surfed to determine their compliance with the ESRB's requirements.²¹⁰ Seventy-five percent of the websites displayed the ESRB rating and icon somewhere on the site, and 14 out of 15 displayed the rating on either the home page or teaser page. Two of the sites, *Hunter the Reckoning – Wayward* and *Silent Scope Complete*, still displayed an "RP" rating instead of the correct "M" rating. Nine of the 15 required the visitor to scroll down the screen to view the rating.

Nine of the game websites displayed content descriptors and two-thirds of those sites required the visitor to hold the cursor over the rating icon to view the content descriptors. Fourteen of the sites had a demo available either to view or to play. However, only three of the demos displayed the rating and content descriptors. The sites that did display the rating and descriptor were *Return to Castle Wolfenstein*, *SWAT: Global Strike Team* and *True Crime: Streets of LA*. The site for *Postal 2* contained a facetious "warning" statement about the content of the site.²¹¹

Twelve of the sites allowed the visitor to purchase the game, either at the site or through a third-party site. Eleven of the games that could be purchased displayed a rating on a page that the visitor had to view at some point during the purchase process of the game, but only three displayed content descriptors on a page that the visitor had to view during the purchase process. Forty percent of the game sites provided a link to the ESRB website.

The site for *X Files* was the only site that provided specific information about the ESRB ratings. None of the sites linked to parentalguide.org. The homepage for *Outlaw Volleyball* linked to a section of the site containing sexually explicit imagery, although there was a disclosure stating that this section may not be suitable for children under 18.

(2) Retailer websites

For this Report, the Commission reviewed five retailer sites – Amazon.com, BestBuy.com, CircuitCity.com, EBGames.com, and GameStop.com – to see if they included rating information for five M-rated games.²¹² Parents looking on major retailers' sites for a game's rating can usually find it easily. The rating was usually prominently placed near the box art. The retailers linked from the web page with information on the game to helpful information on the ESRB rating system – Circuit City also linked to the ESRB's website, www.esrb.org. Some of the sites also provide additional information, such as reviews or descriptions of the game, that may give more details about game play and content.

Aside from EBGames, however, only one site provided the ESRB content descriptors in addition to the rating – and then only for one of the five games checked. Also, while the rating itself was usually provided, the ratings given were not always accurate. One site erroneously categorized a game as not having been rated, when it was actually rated "Mature"; another site indicated that a Mature-rated game was rated "Teen." Two sites provided a rating in writing that was inconsistent with a rating icon visible on the game's box art. In one case the site indicated that the game had been rated "Mature," when the icon on the game's box art indicated "RP" (rating pending); in the other, the reverse situation occurred, as the site indicated the game had not yet been rated, when the icon on the box indicated that the game was rated "M." Similarly, the content descriptors that were provided were often different, though usually subtly, from the official content descriptors assigned by the ESRB. One game that the ESRB assigned an "intense violence" descriptor was instead described as containing "violence."

The EBGames site was exemplary in providing information about the rating system and the ratings process and in providing the content descriptors, both in text and in several instances in a screen shot of the back of the box art.

C. Efforts to Enforce the Rating System at Point-of-Sale

The Commission's prior nationwide undercover surveys in 2000 and 2001 found that unaccompanied children ages 13-16 were able to buy M-rated games 85% (2000) and 78% (2001) of the time. The survey conducted for this Report shows continued, modest improvement. Sixty-nine percent of the children were able to purchase M-rated games, and more than half (56%) of the youngest shoppers – 13-year-olds – were able to buy an M-rated game. A breakout by age of the mystery shop results follows:

FTC Mystery Shop Results by Age - Electronic Games**Q. Was the shopper able to make the purchase?**

	13 years old	14 years old	15 years old	16 years old	Total
No	44%	23%	34%	15%	31%
Yes	56%	77%	66%	85%	69%
# of Shoppers	68	47	62	48	225

Even among those retailers with programs in place to restrict sales,²¹³ 55% of the unaccompanied children were able to buy violent M-rated games. Although the results reflect improvement from the Commission's last survey two years ago and indicate that some retailers are enforcing policies to restrict sales, the numbers still fall short of what might be expected given the multi-year effort by the ESRB to encourage retailers to adopt restrictive sales policies. The trade group representing game retailers, the IEMA, indicated at the Workshop that the industry was considering additional steps and would have some announcement in the near future.²¹⁴ On December 8, 2003, the IEMA announced that all merchants belonging to the association will have in place by the "Holiday Season of 2004" a national carding program and an identification check process for all M-rated games.²¹⁵

Such steps are important because M-rated games continue to be very popular with young teens, especially boys. A recent Gallup poll reported that 75% of boys 17 and under indicated that they had played at least one of the games in the *Grand Theft Auto* series.²¹⁶ Additional data from Gallup suggests as well that the younger respondents (those age 13 to 15) were more likely to say they had played a game in the series than the older respondents (age 16 or 17).²¹⁷ The latest *Video Game Report Card* issued by the National Institute on Media and the Family notes that its own survey, conducted in the summer of 2003, showed that 87% of tween and teen boys (and 46% of girls) say they have played M-rated games, and that most indicate that M-rated games are among their favorites.²¹⁸ According to industry data, nearly 40% of M-rated games purchased in 2002 were for children under 17.²¹⁹

D. Product Packaging

To obtain a rating from the ESRB, companies must agree to place the assigned ESRB rating icon on the lower portion of the front of the package, and any content descriptors on the lower portion of the back of the package.²²⁰ The size of the rating icon varies with the size of the box.²²¹ The rating icon also must be displayed legibly and prominently on game cartridges, compact discs, and smart cards, and on or in the game's manual or an accompanying insert.²²² In June 2003, the ESRB improved these requirements (enforcement of these new provisions began on September 30, 2003). The ESRB now requires that a game's content descriptors be placed in a rectangular box attached to the rating icon on the lower portion of the back of the product package.²²³ This change enhances the readability and prominence of the descriptors. Still, the Commission is aware of research that suggests that most parents would prefer to have a game's content descriptors on the front of the package.

E. Analysis of Current Industry Practices

As the Commission has recognized in its prior reports, the electronic game industry has adopted numerous standards that limit children's exposure to ads for Mature-rated products and require the disclosure of rating information in most forms of advertising. The industry is actively enforcing those standards and penalizing those companies found to be in noncompliance. Yet those standards permit, and, in fact, industry members continue to place, advertisements in television and print media with substantial youth audiences.

The industry, with the exception of some retailers, continues in nearly all instances to include in its advertising rating information that would be helpful for parents. Retailers, while doing a better job in restricting sales to children of Mature-rated products, still routinely make such sales to most buyers. These sales should diminish substantially, however, if promised industry improvements in adopting and enforcing restrictive sales policies are put into place by the end of this year.

V. Conclusion

The Commission's review of marketing practices by the motion picture, music recording, and electronic game industries reveals that the movie and game industries continue to comply, for the most part, with their self-regulatory limits on ad placement, and that the music industry has made some progress in this area as well. In addition, the industries are disclosing rating information in most forms of advertising, and generally are doing so in a clear and conspicuous manner; this practice is not widespread among retailers, however.

Nonetheless, the Commission finds that all three industries continue to advertise violent R-rated movies, explicit-content labeled recordings, and M-rated games in media with large teen audiences. The Commission has noted this practice in earlier reports.²²⁴ In addition, despite the existence of restrictive policies among some retailers, the Commission continues to find that teens can purchase rated or labeled entertainment products at a significant number of stores and theaters. The movie theater industry has made real progress in this area, and to a lesser extent so have game retailers, compared to the Commission's prior "mystery shops," but there remains room for improvement across the board.

The Commission recommends that all three industries continue to improve compliance with existing ad placement guidelines and rating information practices, with particular attention to avoiding advertising in venues popular with under-17 audiences, regardless of whether those audiences reach or exceed 35%.²²⁵ All three industries should also consider developing "best practices" to avoid advertising in venues popular with teen audiences, such as recommending that promotions for R-rated films not take place in venues likely to attract significant numbers of young teens or that advertisements not be placed on websites that have a substantial teen audience.

The Commission also recommends that the industries continue to improve their rating information disclosure practices. Although there has been notable progress in both the frequency and legibility of rating information disclosures, there remains room for improvement in both areas. With respect to